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Docket No.: 5000-0171PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jordi TORMO I BLASCO et al.

Application No.: 10/579,144

Confirmation No.: 6903

Filed: May 15, 2006

Art Unit: 1614

For: 6-(2,4,6-TRIFLUOROPHENYL)-
TRIAZOLOPYRIMIDINES, METHOD FOR
THE PRODUCTION THEREOF, USE
THEREOF FOR CONTROLLING HARMFUL
FUNGI, AND SUBSTANCES CONTAINING
THE SAME

Examiner: Not Yet Assigned

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the above-identified application on May 15, 2006, attached hereto is an English Translation of the International Preliminary Report on Patentability issued by the International Bureau on behalf of the International Searching Authority. Please make this document of record for the above-identified application.

Application No.: 10/579,144

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: January 18, 2007

Respectfully submitted,

By 

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Attachment(s)

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 0000055098	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/013063	International filing date (day/month/year) 18.11.2004	Priority date (day/month/year) 25.11.2003
International Patent Classification (IPC) or national classification and IPC C07D487/04, A61 K31/519		
Applicant BASF AKTIENGESELLSCHAFT		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013063

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-21 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-11 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☐ the drawings:
- sheets _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013063

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability:
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1, 11</u>	YES
	Claims _____	NO
Inventive step (IS)	Claims <u>1, 11</u>	YES
	Claims _____	NO
Industrial applicability (IA)	Claims <u>1, 11</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

Reference is made to the following documents:

- D1: WO 99/41255 A (AMERICAN CYANAMID COMPANY), 19 August 1999
(1999-08-19)
- D2: US-B1-6 255 309 (PEES KLAUS-JUERGEN ET AL), 3 July 2001
(2001-07-03)
- D3: WO 03/091254 A (BAYER CROPSCIENCE AKTIENGESELLSCHAFT;
GEBAUER, OLAF; GREUL, NICO, JOER), 6 November 2003
(2003-11-06)
- D4: WO 03/093271 A (BASF AKTIENGESELLSCHAFT; TORMO I BLASCO,
JORDI; BLETTNER, CARSTEN; MUE), 13 November 2003
(2003-11-13)
- D5: WO 03/008415 A (BASF AKTIENGESELLSCHAFT; TORMO I BLASCO,
JORDI; SAUTER, HUBERT; MUELLE), 30 January 2003
(2003-01-30)
- D6: WO 02/083677 A (BASF AKTIENGESELLSCHAFT; TORMO I BLASCO,
JORDI; SAUTER, HUBERT; MUELLE), 24 October 2002
(2002-10-24)
- D7: WO 98/46607 A (AMERICAN CYANAMID COMPANY), 22 October 1998
(1998-10-22)

Novelty (PCT Article 33(2))

The subject matter of the present application can be regarded
as a novel selection in relation to D1 on account of the

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013063

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

2,4,6-trifluorophenyl group and the 7-amino substituent.

The claimed compounds differ from those disclosed in documents D2, D3 and D7 by virtue of the manner of substituent in the 5-position on the triazolopyrimidine backbone.

The claimed compounds differ from those disclosed in documents D4, D5 and D6 by virtue of the 2,4,6-trifluorophenyl group in the 6-position on the triazolopyrimidine backbone.

Inventive step (PCT Article 33(3))

The application relates to 2,4,6-trifluorophenyl triazolopyrimidine and its use for fungus control.

Document D1 is considered to be the prior art closest to the subject matter of the present application. D1 also discloses 2,4,6-trifluorophenyl triazolopyrimidine and its use for fungus control.

The present invention can be regarded as a novel selection in relation to D1 (see above). The claimed compounds can only be considered inventive if they are shown through comparative tests to exhibit unexpected properties or advantages in comparison with the compounds of D1 that are structurally most closely related to them, or if they are shown to provide an unexpected solution to a previously unsolved problem. The applicant has presented the results of comparative tests showing the strong fungicidal action of the claimed compounds in comparison with those disclosed in documents D1 to D7. Since these properties are not suggested by the prior art, the claimed compounds can be considered inventive.